

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2007**

**TITLE OF PAPER :      LAW OF CONTRACT**

**COURSE CODE     :      DL 023**

**TIME ALLOWED   :      THREE (3) HOURS**

**INSTRUCTIONS   :      1. ANSWER ANY FOUR (4) QUESTIONS.**  
**2. ALL QUESTIONS CARRY EQUAL MARKS**

**TOTAL MARKS    :      100**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY  
THE INVIGILATOR**

### QUESTION 1

The essential requirements for the formation of a contract are a *conditio sine qua non* for the validity of contract. Discuss.

(25 MARKS)

### QUESTION 2

Agreements contrary to law, Public Policy, or good morals cannot be conferred by legal action. Discuss.

(25 MARKS)

### QUESTION 3

Write notes on the following:

- |       |                                  |                  |
|-------|----------------------------------|------------------|
| (i)   | Plurality of debtors             | (5 marks)        |
| (ii)  | <i>Essentialia</i> of a Contract | (5 marks)        |
| (iii) | Cession                          | (5 marks)        |
| (iv)  | Imposed Contracts                | (5 marks)        |
| (v)   | Warranty                         | (5 marks)        |
|       |                                  | (TOTAL 25 MARKS) |

### QUESTION 4

Lucky concludes a building contract with a contractor, Ricky, in terms of which Ricky must build a house of Lucky's specification for a sum of E100,000. Ricky is to be paid on completion. However, Ricky only completes the walls of the house before he is sequestered. The curator of his insolvent estate institutes action against Lucky for payment of E100,000. Lucky comes to you for advice. Discuss.

(25 MARKS)

### QUESTION 5

Discuss De Vos's five possible stipulations and/or postulations on *mora debitoris*.

(25 MARKS)